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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,564	09/04/2001	Nida Abdul-Ghani Nassief		8476

7590  
AL-JASSIM, Rawaa  
2578 River Woods Drive  
Naperville, IL 60565

11/21/2005

EXAMINER

LEWIS, PATRICK T

ART UNIT	PAPER NUMBER
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1623

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/944,564

Applicant(s)

NASSIEF, NIDA ABDUL-GHANI

Examiner

Patrick T. Lewis

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 25-34 is/are pending in the application.
- 4a) Of the above claim(s) 28-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I in the reply filed on August 4, 2004 is acknowledged. The traversal is on the ground(s) that the relationship between the two active agents glycoposphopeptical and Nigella sativa is based on disclosed commonality of the mode of operation, function and effect, rather than similarity of the active agent. This is not found persuasive because the two compositions are independent and distinct. There is no disclosure in the instant specification that would suggest that the two active agents have a structurally, common chemical core. Applicant's argument that the active agents have a common utility is not persuasive since the compositions are limited by utility.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 28-34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on August 4, 2004.

### ***Applicant's Response Dated August 4, 2004***

3. Claims 25-34 are pending. Claims 28-34 are withdrawn as being drawn to a nonelected invention. An action on the merits of claims 25-27 is contained herein below.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Sanchez Palacios A. et al. Allergol Immunopathos (Madr), (1992), Vol. 20 (1), pages 35-39 (Sanchez).

Sanchez discloses the use of immunoferon (AM3) in the treatment of childhood infectious respiratory pathology. To assess the immunoclinical effectiveness of a biological response immunomodulator, glycoposphopeptide (AM3) was administered to 20 children with asthmatic bronchitis. The children received 2 envelopes (1 g) daily for 4 months. The clinical and immunological parameters assessed were: cough, dyspnea, expectoration, frequency and intensity of the bronchospasm, time of administration of the symptomatic medication, and the delayed cutaneous cells response by means of the intradermal reaction of 5 antigens. Immunoferon reduced the symptoms, the intensity and frequency of the bronchospasm, and the symptomatic medication.

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### ***Conclusion***


6. Claims 25-34 are pending. Claims 28-34 are drawn to a nonelected invention. Claims 25-27 are rejected. No claims are allowed.

### ***Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick T. Lewis whose telephone number is 571-272-0655. The examiner can normally be reached on Monday - Friday 10 am to 3 pm (Maxi Flex).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Patrick T. Lewis, PhD  
Examiner  
Art Unit 1623

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